

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM: Monroe D. Kiar, Town Attorney
954-584-9770

SUBJECT: Ordinance

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LIST OF PERMITTED USES WITHIN THE B-2, COMMUNITY BUSINESS DISTRICT AND B-3,, PLANNED BUSINESS CENTER DISTRICT TO INCLUDE "STORE FRONT HOUSES OF WORSHIP"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

Pursuant to the direction of the Town Council, the Town Attorney's Office, along with Mayor Truex, has drafted an Ordinance that would allow the inclusion of store front houses of worship within the B-2 and B-3 zoning districts. This Ordinance is being provided in an attempt to comply with the Religious Land Use and Institutionalized Persons Act of 2000, while lessening any potential impact that such uses may have on commercial development.

PREVIOUS ACTIONS: None

CONCURRENCES: At its November 12, 2003 meeting, the Local Planning Agency recommended approval subject to the the restrictions mentioned; specifically, that such uses not allow school activities; that it be subject to the parking requirements discussed [one space for each 40 square feet and one space for each 200 square fee of employee service area]; that it be subject to distance separations discussed [2,500 linear feet between houses of worship] as well as the limitation of one house of worship per shopping center; and that there be language, including the mechanism, that it be via a "special permit" process. (Motion carried 3-1 with Chair Bender dissenting and Mr. Stevens being absent)

FISCAL IMPACT: N/A

RECOMMENDATION(S): Suitable for transmittal to Town Council for its consideration.

ATTACHMENTS: Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LIST OF PERMITTED USES WITHIN THE B-2, COMMUNITY BUSINESS DISTRICT AND B-3, PLANNED BUSINESS CENTER DISTRICT TO INCLUDE "STORE FRONT HOUSES OF WORSHIP"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Federal Government of the United States of America, in enacting the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), specifically proscribed the disparate treatment of religious institutions by governments in implementing land use regulations; and

WHEREAS, the Town of Davie's Land Development Code presently disallows Houses of Worship from operating within the Town's B-2 and B-3 Zoning Districts; and

WHEREAS, religious institutions within the Town of Davie have requested to be allowed to operate within "shopping centers" in the Town's B-2 and B-3 Zoning Districts; and

WHEREAS, the Town of Davie, in accordance with the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), deems it appropriate and necessary to allow religious institutions to operate "Store Front Houses of Worship" within shopping centers in the Town's B-2 and B-3 Zoning Districts; and

WHEREAS, the Town of Davie, in contemplation of the possible affects that "Store Front Houses of Worship" may have on commercial development within the Town's B-2 and B-3 Zoning Districts, deems it appropriate to place conditions on the proliferation of such uses.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

Section 12-503. Definitions, is amended to include:

a) "Store Front Houses of Worship" shall mean any church, synagogue, mosque, or place of worship situated within a shopping center and utilized by a religious organization for holding religious services.

Section 12-34 shall be amended to include:

a) Store Front Houses of Worship: No individual Store Front House of Worship shall occupy more than 8500 square feet of any "shopping center" and no more than 25% of the area of any "shopping center", including outparcels, shall be occupied by "Store Front Houses of Worship".

b) Location of service stations: There shall be a minimum distance of two hundred fifty (250) feet, shortest airline measurement, between the nearest points on any lot to be occupied for

fuel pump islands and/or service station purposes and any lot which is occupied by a church, excluding store front houses of worship, playground, playfield, hospital, elementary school, middle school, zoned, or land use plan designated residential. The application shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the proposed facility and any applicable above uses.

SECTION 1. No "Store Front House of Worship" shall occupy more than 8500 square feet of any "shopping center" and no more than 25% of the area of any "shopping center" shall be occupied by "Store Front Houses of Worship".

SECTION 2. The tax exemptions articulated within Section 23.18 of the Town of Davie Code or any other provisions exempting Houses of Worship from taxation within the Town of Davie Code shall not apply to "Store Front Houses of Worship".

SECTION 3. If any section, subsection, sentence, clause phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2003

PASSED ON SECOND READING THIS ____ DAY OF _____, 2003

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003

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